

## REMARKS

### Claim Changes

Claims 1 and 3 are amended to recite “determining whether the command is directed to [a server] further upstream.” These changes are based at least on FIG. 1 and the accompanying description in paragraph [0035] of Applicant’s specification as published (US 2004/0221313 A1), and further based on claim 12. Thus, no new matter is added.

No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment is made for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment is made to distinguish over a particular reference or combination of references. Any remarks made herein with respect to a given claim or amendment is intended only in the context of that specific claim or amendment, and should not be applied to other claims, amendments, or aspects of Applicant's invention.

Rejection of Claims 1-3, 8-14, and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over US PG Publication No. 20030192054 (Birks) in view of US Patent No. 5999970 (Krisbergh), and further in view of US PG Publication No. 20030061604 (Elcock)

Applicant respectfully traverses in part and amends in part. Applicant has amended claims 1 and 3 to clarify the invention. Applicant therefore respectfully requests reconsideration of the rejection of claims 1-3, 8-14, and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over Birks, in view of Krisbergh, and further in view of Elcock.

Applicant has carefully reviewed the present application and the cited arts and has amended independent claims 1 and 3 to clarify the claimed invention. In particular, independent claims 1 and 3, have been amended to recite “*determining* whether the command is directed to [an augmentation unit/server] *further upstream*,” and further independent claim 12 recites “*a command executive that...determines* whether the command is addressed to said *augmentation unit or a unit further upstream*,” which are not taught or suggested in the combination of Birks, Krisbergh, and Elcock.

Applicant’s amended claims 1 and 3, and further independent claim 12 clarifies that Applicant’s method include the step of determining whether the command is directed to a augmentation unit/server further upstream, where the command is executed if it is determined that the command is not directed to an augmentation unit/server further upstream. In contrast,

none of the cited references teach or suggest the step of determining whether the command is directed to an augmentation unit/server further upstream.

Birks is directed towards a network personal video recorder supporting video recording functionality in a server-centric environment. Birk, at best discloses a set top box that has bi-directional capability such that a request for content may be propagated back to a server via a reverse data channel (see Birk, paragraph [0017]). However, Birks does not teach or suggest the step of determining whether a command is directed to a server further upstream or the step of executing a command if it is not directed to a server further upstream.

Krisbergh is directed towards a method for providing interactive access to an information source through a television distribution system. In operation, a command for an information source that is input into a terminal (set top converter) by the inputting device is transmitted by an upstream transmitter on an RF-modulated upstream channel from the terminal to cable headend equipment (see Krisbergh, column 4, lines 46 through 56). In other words, Krisbergh merely discloses that the command is directed to an information source via cable headend equipment. However, Krisbergh fails to teach or suggest a decision step that determines whether the command is directed towards to a server or any unit further upstream. Further, Krisbergh does not teach or suggest as to on what condition the received command will be executed. Therefore, Krisbergh fails to teach or suggest Applicant's claimed feature of "*determining whether the command is directed to [an augmentation unit/server] further upstream.*"

Elcock describes a software-code configurable digital appliance, such as a television settop box. Elcock discloses a processing component that selects an appropriate version of the firmware depending on a predetermined criteria relating to the network to which the appliance is connected (see Elcock Abstract). However, Elcock also fails to address the deficiency of Birks and Krisbergh.

Therefore, the combination of Birks, Krisbergh, and Elcock does not teach or suggest Applicant's claimed feature "*determining whether the command is directed to [an augmentation unit/server] further upstream*" as recited in independent claims 1 and 3, and "*a command executive that... determines whether the command is addressed to said augmentation unit or a unit further upstream*" as recited in the independent claim 12, so Applicant respectfully requests withdrawal of the rejection of claims 1, 3, and 12 under 35 U.S.C. § 103.

For the above reasons, Applicant submits that claims 1, 3, and 12 are not obvious in view of the combination of Birks, Krisbergh, and Elcock, and therefore that the rejection of claims 1,3, and 12 under 35 U.S.C. § 103(a) should be withdrawn. Applicant requests that claims 1, 3, and 12 may now be passed to allowance.

Claim 2 depends from, and includes all the limitations of independent claim 1. Claims 9-11 depend from, and include all the limitations of independent claim 3. Claims 13-14 and 19-22 depend from, and include all the limitations of independent claim 12. Therefore, Applicant respectfully requests the reconsideration of dependent claims 2, 9-11, 13-14, and 19-22 and requests withdrawal of the rejection.

Rejection of Claims 5-7 and 16-18 under 35 U.S.C. § 103(a) as being unpatentable over US PG Publication No. 20030192054 (Birks) in view of US Patent No. 5999970 (Krisbergh), further in view of US PG Publication No. 20030061604 (Elcock), and further in view of US Patent No. 7305357 (Hamilton)

As mentioned above, Applicant respectfully submits that the combination of Birks, Krisbergh, and Elcock does not disclose “*determining* whether the command is directed to an augmentation *unit further upstream*” as recited in independent claim 3 and “*a command executive that... determines* whether the command is addressed to said *augmentation unit or a unit further upstream*” as recited in independent claim 12. Since, the combination of Birks, Krisbergh, and Elcock does not teach or suggest Applicant’s above claimed features, a further combination with Hamilton also fails to disclose Applicant’s claimed invention. Applicant respectfully requests withdrawal of the rejection of claims 5-7 and 16-18 under 35 U.S.C. § 103(a). Applicant requests that claims 5-7 and 16-18 may now be passed to allowance.

### Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant’s attorney at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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